

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

**IN RE: NATIONAL PRESCRIPTION
OPIATE LITIGATION**

THIS DOCUMENT RELATES TO:

*The County of Summit, Ohio, et al. v. Purdue
Pharma L.P., et al.*
Case No. 18-op-45090

MDL No. 2804

Case No. 17-md-2804

Judge Dan Aaron Polster

*The County of Cuyahoga, Ohio, et al. v.
Purdue Pharma L.P., et al.*
Case No. 1:18-op-45004

Track One-B

**PHARMACY DEFENDANTS' MOTION
FOR TRACK ONE-B CASE MANAGEMENT CONFERENCE¹**

On November 19, 2019, the Court entered a Track One-B Case Management Order. Prior to issuing the Order, the Court did not hold a case management conference. The Court therefore did not have the benefit of hearing specifics from the Pharmacy Defendants on the extent of discovery needed to defend against Plaintiffs' new claims, such as the dispensing data the Pharmacy Defendants need to collect from the Ohio Board of Pharmacy, the discovery they need from DEA, the number of third-party depositions they need to take, and the number of depositions they need to re-open. The Court did not have the benefit of hearing from the Pharmacy Defendants on other case management issues as well, ranging from motions to joinder of third parties.

Nor, to the Pharmacy Defendants' knowledge, did the Court have the benefit of hearing from Plaintiffs on the specifics of the discovery they purport to need, such as the number of defense

¹ Pharmacy Defendants refers to those defendants against whom Plaintiffs are pursuing claims in Track One-B: CVS, Discount Drug Mart, HBC/Giant Eagle, Rite Aid, and Walgreens (collectively, "Pharmacy Defendants").

witnesses for whom they seek email and custodial files, the breadth of their requested search terms, and the number of defense witnesses they seek to depose.²

The Pharmacy Defendants therefore request a case management conference for Track One-B. Especially for the new parties to the case, but for all parties as well given the introduction of new claims, a case management conference is required. *See* Local Civil Rules 16.1-16.3; *see also* Fed. R. Civ. P. 16(b)(1)(B).³ Even if the Court were to deem it non-mandatory in the context of an amended complaint, a case management conference is necessary as a practical matter to ensure that the Court possesses material information regarding the scope of discovery and other case management matters.

Date: November 25, 2019

Respectfully submitted,

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² Plaintiffs' submission to the Court stated only that "[o]nly limited additional factual discovery of these Defendants is necessary." Dkt. No. 2935 at 3. The submission did not provide any specifics.

³ Under the Federal Rules, the Court may receive a Rule 26(f) report from the parties in lieu of holding a conference. *See* Fed. R. Civ. P. 16(b)(1)(A). That has not occurred here either.

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on November 25, 2019, the foregoing was filed using the Court's CM/ECF filing system and will be served via the Court's CM/ECF filing system on all attorneys of record.

/ s/ *Eric R. Delinsky*
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